

Appeal Decision

Site visit made on 2 February 2021

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2021

Appeal Ref: APP/N5090/W/20/3260224

14 Grange Avenue, Totteridge, London N20 8AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr and Mrs S Shah against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/1938/S73, dated 24 April 2020, was refused by notice dated 18 June 2020.
 - The application sought planning permission for demolition of an existing two storey dwelling and erection of a new two storey dwelling with leisure facilities in the basement and rooms in the roofspace including front and rear dormer window and side and rear facing rooflights. Associated refuse/recycling store without complying with a condition attached to planning permission Ref 19/6370/FUL, dated 9 March 2020.
 - The condition in dispute is No 1 which states that: The development hereby permitted shall be carried out in accordance with the following approved plans: 1613 P.00 (Location Plan), 1613 P.02C, 1613 P.03C, 1613 P.04C, 1613 P.05C, Design and Access Statement, Tree Survey, Tree Protection Plan Rev A (November 2019) and Ecology Report.
 - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with Policies CS NPPF and CS1 of the Local Plan Core Strategy DPD (adopted September 2012) and Policy DM01 of the Local Plan Development Management Policies DPD (adopted September 2012).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity, I have taken the name of the appellants in the banner heading above from the appeal form as it is more precise.
3. At the time of my site visit, the house that occupied the site had been demolished and the site had been cleared with piling works being undertaken. I have dealt with the appeal on this basis.

Main Issue

4. There is no dispute between the main parties that the proposal constitutes a Minor Material Amendment (MMA). Based on the evidence before me, I find no reason to conclude otherwise.

5. Therefore, the main issue of this appeal is the effect of the development on the living conditions of the occupiers at No 16 Grange Avenue, with particular regard to dominance and outlook.

Reasons

Background

6. Another planning application¹ (the previously refused scheme) was submitted and refused, prior to the approval of the planning application (the approved scheme), subject of the MMA application, which is subject of this appeal. Whilst the single storey rear element of the previously refused scheme projected further into the site than the scheme before me. The scheme, subject of the MMA before me, would result in similar dimensions/ footprint, adjacent to No 16, to that proposed on the previously refused scheme.

Living conditions

7. The MMA subject of the appeal seeks to extend a proportion of the proposed single storey rear element of the replacement dwelling. On the approved scheme, the single storey rear element of the replacement house is to be stepped in, away from No 16. This results in the side elevation facing No 16, projecting no further than the detached outbuilding (the outbuilding) to the rear of No 16 in proximity with the shared boundary with the site.
8. The scheme before me seeks to reduce the stagger in the proposed rear building line of the replacement dwelling, through increasing the depth of the side elevation facing No 16 by 1.79m approximately. This resultant increase would result in this section of the proposed development extending beyond the outbuilding at No 16. I accept that the increase in projection is a modest distance and that it would have a flat roof. However, the changes in levels due to the surrounding topography, results in No 16 being located on a notably lower level when compared to the site. Thus, the proposed increase in projection of the proposed development would, in this instance, be apparent.
9. I acknowledge the overall distance that would be maintained between the proposed development and No 16, and that the proposed development would be sited at an oblique angle to No 16. Nonetheless, I consider that these physical conditions, in addition to the size of the rear garden at No 16 to provide insufficient mitigation to prevent any significant harm to the amenity of the occupiers of No 16. Due to the changes in levels, it is highly likely that the single storey element of the proposed development would reach the level of the main windows (excluding top lights), in the rear elevation of No 16 especially the window on the rear elevation, closest to the shared boundary. This would harm the outlook from this window. Additionally, whilst acknowledging the presence of the outbuilding, I am not convinced that the increased projection in the proposed development would not create any dominance issues, especially in the outside amenity area, directly to the rear of No 16.
10. For all of these reasons, I therefore conclude that the proposed development would significantly harm the living conditions of No 16. This conflicts with the amenity aims of Policies CS NPPF of Barnet's Local Plan (Core Strategy) Development Plan Document 2012 (CS); Policy DM01 of Barnet's Local Plan (Development Management Policies) Development Plan Document 2012, the

¹ 19/3213/FUL

Council's Local Plan Supplementary Planning Document: Residential Design Guidance 2016. The development also fails to comply with the requirements of the National Planning Policy Framework.

11. CS Policy CS5 has been cited on the Council's decision notice. However, this policy appears to relate to character. Consequently, I find this is not directly applicable to the case before me.

Planning Balance and Conclusion

12. Whilst the MMA would not result in other harm, including character and appearance, I have found that the changes proposed to the approved scheme would have a significant harmful effect on the living conditions of the occupiers of No 16. Therefore, taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR